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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/662,195 09/14/00 JOHNSON K 2000200-0003

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EXAMINER

GOLLAMUDI, S

ART UNIT

PAPER NUMBER

1616

DATE MAILED:

11/02/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application N . 09/662,195	Applicant(s) JOHNSON, KEITH H.	
	Examiner Sharmila S. Gollamudi	Art Unit 1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspond nce address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2000 .
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☒ Claim(s) 14,16 and 22 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- | | |
|--|---|
| 15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 20) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claims 1-24 are included in the prosecution of this application.

Claim Objections

Claims 14, 16, 22 are objected to because of the following informalities: all claims are required to end with a period and claim 22 contains a typographical error, 'cosmeticoil' should read cosmetic oil. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 16, the recitation of "need-like in form" is unclear.

Claim 23 depends on itself and therefore it is unclear what is being claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0916621 in combination with Lorenzen (5711950) in further view of Lefebvre (4165385).

EP 0916621 discloses using fine clustered water for compositions such as pharmaceutical and cosmetic. The advantages of using microclustered water are disclosed: the superior ability to disperse oil and fats in order to prepare emulsions. It is further, disclosed that water-soluble surfactants must be added to the water in order to prepare the emulsion (note pg. 2, lines 6-25). The reference teaches water-in-oil emulsions containing microclustered water, surfactants (ethanol, polyoxyethylenecetyl ether, etc.) and cosmetic oils (paraffin or olive). EP 0916621 discloses the compositions in various forms such as creams, gels, and liquids. Further, the reference discloses the use of additives such as fragrances and antioxidants. EP 0916621 discloses the use of borax in one of the compositions for stability of the emulsion. (Note examples 5-10)

The reference does not teach the water clusters in the instant size or the arrangement of the water clusters.

Lorenzen discloses the process of making microclustered water and using the water for pharmaceuticals and cosmetic/skin products. The reference further discloses the microclusters in 3-15 molecule arrangements and discloses that larger clusters lower the biomedical effectiveness. (Note col. 8, lines 30-55). Lorenzen discloses using

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templates for creating specific molecular arrangements for specific results (col. 1, lines 45-51).

Lefebvre discloses the use of borax in water-in-oil emulsions to produce micelles to stabilize the emulsion (col. 2, lines 43-46).

It is deemed obvious to one of ordinary skill in the art at the time the invention was made to combine EP 0916621 and Lorenzen since both teach the advantages of using microclustered water in cosmetic and pharmaceutical compositions. The motivation to combine the references is that Lorenzen teaches the molecular arrangement of the clusters and that smaller sized clusters are advantageous in a cosmetic or pharmaceutical composition such as that of EP 0916621.

Further, it is deemed obvious to one of ordinary skill in the art at the time the invention was made to manipulate the conditions of EP 0916621 to achieve the best possible results. One would be motivated to do so since the prior art discloses the general conditions of the water-in-oil emulsion.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of the references since EP 0916621 discloses the use of borax in the emulsion formula and Lefebvre discloses the use of borax for the formation of micelles, which produces a stable emulsion. One would be motivated to do so since micelles allow dispersion and thus the composition will not separate (Note EP 0916621, pg. 14, lines 1-5).

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Claims 1, 4-5, and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0916621 in combination with Lorenzen (5711950) in further view of Johnson et al (5800576).

As cited above, the references disclose microclustered water compositions for pharmaceutical or cosmetic agents. Further, Lorenzen discloses that the clustered water can be used in various arts ranging from the cosmetic arts to coal/petroleum arts (Note pg. 6)

The reference does not disclose the molecular arrangement or the size of the water.

Johnson et al disclose the water clusters in the instant arrangements (Note fig. 8 and 12). Although, the reference speaks on the use of clustered water for the fuel industry, Johnson et al disclose the importance of water in biological reactions (col. 1, lines 1-16).

It is deemed obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of EP 0916621, Lorenzen, and Johnson et al since all the references discuss the importance of clustered water and the subsequent use of it various arts.

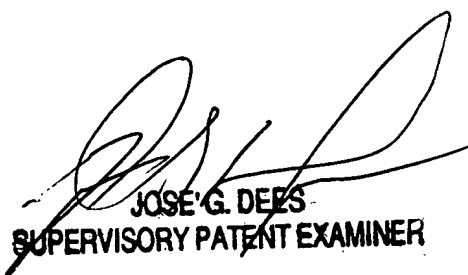
Any inquiry concerning this communication from the examiner should be directed to Sharmila S. Gollamudi whose telephone number is (703) 305-2147. The examiner can be normally reached M-F from 7:30 am to 4:15pm.

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If attempts to reach the examiner by the telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached at (703) 308-4628. The fax number for this organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is (703) 308-1235.

SSG


JOSE G. DEES
SUPERVISORY PATENT EXAMINER
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